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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SASCHA BAUMEISTER and BERNHARD SCHMID

Appeal 2009-006351
Application 10/624,353
Technology Center 2400

Before JOHN C. MARTIN, CARLA M. KRIVAK,
and ELENI MANTIS MERCADER, *Administrative Patent Judges*.

MARTIN, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-7 and 11-18, which are all of the pending claims.²

We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

A. Appellants' invention

Appellants' invention relates to a method, a computer program product, and a device for streaming a media file over a distributed information system, such as the Internet, to a client computer running a browser application. Specification 1:4-7.³ The invention is summarized in the Specification as follows:

First, a server receives a request for a particular media file from the client computer. Then, the server provides a metafile[,] e.g., by dynamically generating the metafile or, alternatively, statically querying the metafile from a respective data storage, whereby said metafile contains information about the identification, location and format of the media file, and returns it back to the client computer. Advantageously, the server intercepts a download request for the actual media file and reinterprets the download request in[to] a request for receiving a corresponding metafile. Thus, instead of returning the requested media file, a metafile is returned that allows immediate streaming of the requested media

² The Examiner, as noted at page 2 of the October 15, 2007, Advisory Action, approved entry of a September 24, 2007, Amendment canceling claims 8-10.

³ Citations herein to Appellants' Specification ("Spec.") are to the Application as filed rather than to corresponding Patent Application Publication 2004/0078470 A1.

file without the need of waiting for the download to be finished.
Id. at 6:4-12.

Figure 1 of the Application is reproduced below.

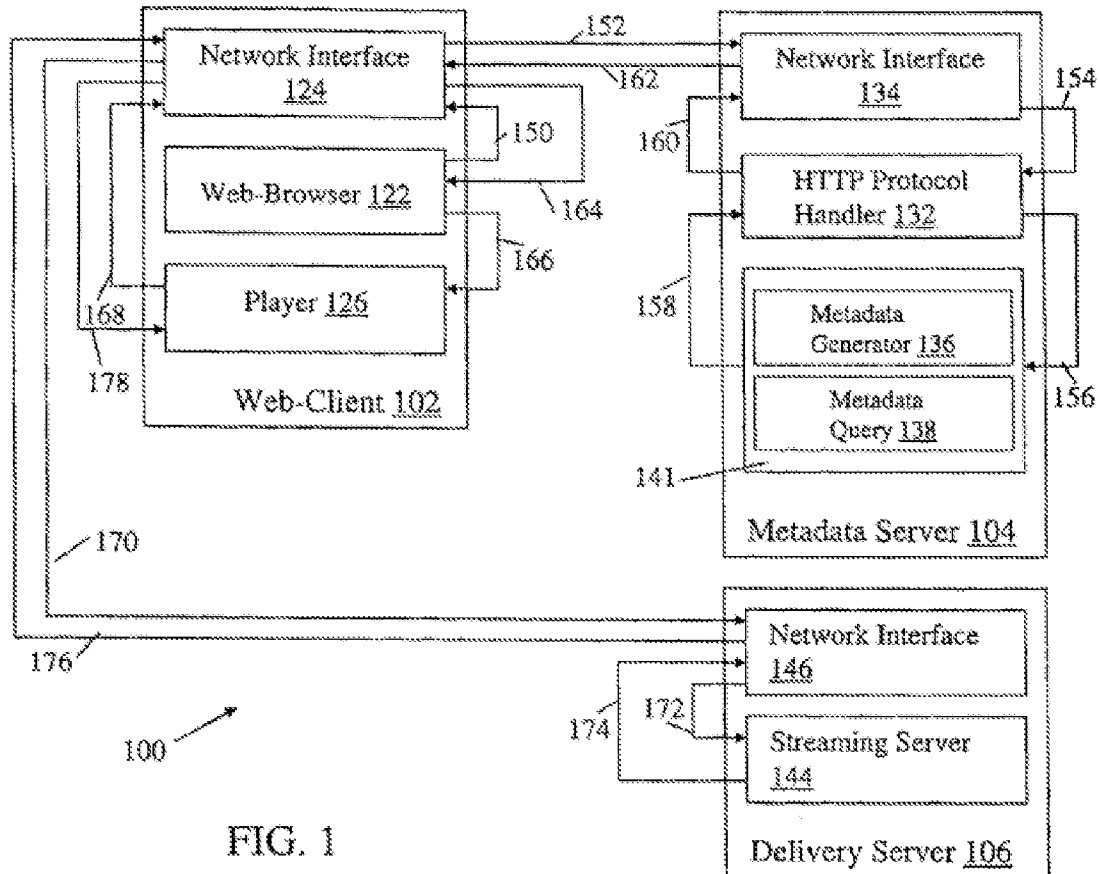


FIG. 1

Figure 1 is a block diagram illustrating a system 100 in accordance Appellants' invention (*id.* at 9:4-5). In web client 102, the web browser 122 composes an HTTP (Hypertext Transfer Protocol⁴) request for a particular media content file and sends the request to network interface 124 (*id.* at

⁴ Spec. 2:17.

11:14-15). Regarding generation of this HTTP request, the Specification explains that

[a] user clicking an HTML [Hypertext Markup Language⁵] document link may initiate this action. Alternatively a user may initiate this action by typing the request URL [Uniform Resource Locator⁶] into the browser[']s URL input field. Please note that the request URL points to the media file itself, and neither to a streaming metafile nor a CGI/Java Servlet program component.

Id. at 11:15-19. The HTTP request is received by network interface 134 in metadata server 104 and forwarded to an HTTP protocol handler 132 in that server (*id.* at 11:14-25). In contrast to a conventional HTTP protocol handler, which answers an HTTP request either by returning the content of the resource requested (default HTTP behavior) or by executing the resource and forwarding its reply (Java Servlets, CGI scripts), HTTP protocol handler 132 “reinterprets the HTTP request so that it returns streaming metadata” (*id.* at 12:1-5), i.e., metadata about the requested data stream or streams. Specifically, HTTP protocol handler 132 obtains the metadata for the requested media resource from the metadata generator 136 or from the metadata query component 138 (*id.* at 12:5-7). In either case, the resulting “streaming metadata” is returned to HTTP protocol handler 132 (*id.* at 12:18-19). This streaming metadata is accompanied by a MIME (Multipurpose Internet Mail Extension)-Type suitable for the streaming metadata (*id.* at 12:19-21).

⁵ Spec. 2:13-14.

⁶ Spec. 4:20-21.

HTTP protocol handler 132 sends the streaming metadata and MIME-Type through network interfaces 134 and 124 to web browser 122, which analyzes the MIME-Type, selects a suitable multimedia player 126 based on this information, and forwards the streaming metadata information to the multimedia player (*id.* at 13:8-11). The multimedia player analyses the streaming metadata passed to it and extracts all relevant information, such as which streaming server to contact, which streaming protocol to use, and which file to stream (*id.* at 13:12-14). Streaming protocols may be RTSP (Real Time Streaming Protocol⁷), HTTP, or proprietary protocols, depending on the streaming technology provider (*id.* at 13:14-15). Next, multimedia player 126 composes a streaming protocol request and sends it via network interface 124 to network interface 146 on delivery server 106 (*id.* at 13:15-19). Delivery server 106 transfers real-time protocol packets via network interfaces 146 and 124 to multimedia player 126, which renders their content as they arrive (*id.* at 14:1-14).

B. The claims

The independent claims before us are claims 1, 11, and 18, of which claim 1 reads as follows:

1. A method for streaming a media file over a distributed information system to a client computer running a browser application, the method comprising the steps of:

⁷ Spec. 3:10-11.

receiving a request for a particular media file from a client computer,

providing a metafile, wherein said metafile contains information about the identification, location and format of the media file,

returning said metafile back to said client computer, characterized in that

the step of receiving a request for a particular media file from a client computer comprises the steps of:

intercepting a download request for the actual media file and

reinterpreting said download request into a request for receiving a corresponding metafile.

Claims App. (Br. 24).⁸

Appellants, in identifying the support for claim 1 in the Specification, read the step of “receiving a request for a particular media file from a client computer” on the receipt by metadata server 104 of the HTTP request generated by web client 102 (Br. 8) and read the recited “metafile” that is returned back to the client computer on the “streaming metadata” transmitted by metadata server 104 to web client 102 (*id.* at 9).

C. The reference

The Examiner’s rejections are based on the following reference:

Klemets US 2003/0236912 A1 Dec. 25, 2003

In the discussion of the anticipation rejection, the Examiner also relies on H. Schulzrinne et al., *Network Working Group, Request for Comments:*

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2326, *Category: Standards Track* (April 1998) [hereinafter “Schulzrinne”].
Final Action 7-8.

D. The rejections

Claims 1-4, 6-14, and 16-18 stand rejected under 35 U.S.C. § 102(e) for anticipation by Klemets. Final Action 2, para. 3.⁹

Claims 5 and 15 stand rejected under 35 U.S.C. § 103(a) for obviousness over Klemets. *Id.* at 5, para. 5.

THE ISSUE

The dispositive issue raised by Appellants’ arguments is whether the Examiner erred in reading the recited “download request for the actual media file” (claim 1) on Klemets’s DESCRIBE request.¹⁰

ANALYSIS

⁸ Appeal Brief filed December 19, 2007.

⁹ Although claim 18 is not identified in the statement of the rejection at page 3, paragraph 3 of the Final Action, that claim is addressed at page 5 thereof in the discussion of the rejection.

¹⁰ See *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) (“If an appellant fails to present arguments on a particular issue — or, more broadly, on a particular rejection — the Board will not, as a general matter, unilaterally review those uncontested aspects of the rejection.”). Designated as precedential at <http://www.uspto.gov/ip/boards/bpai/decisions/prec/index.jsp>.

Klemets's invention relates to content streaming and more particularly to embedding a streaming media format header within a session description message. Klemets [0002], [0003].

Figures 1 and 3 are reproduced below.

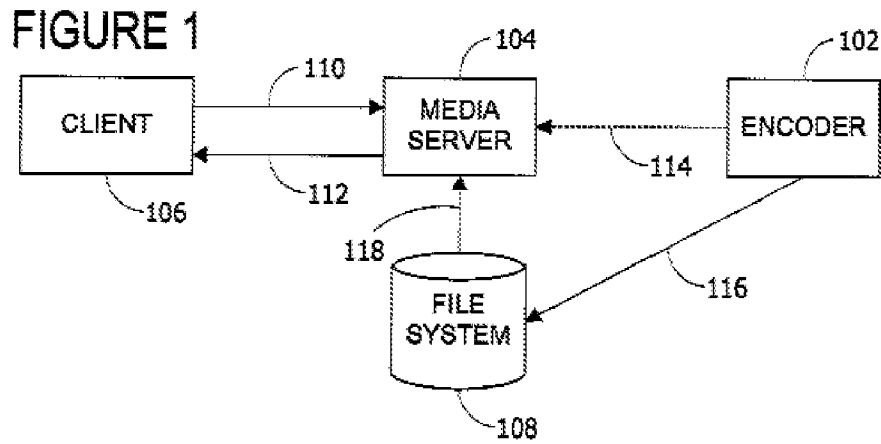


FIGURE 3

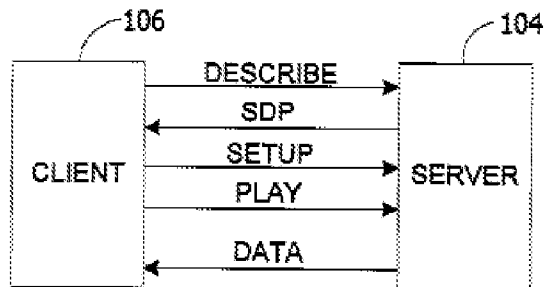


Figure 1 is a block diagram of Klemets's system (*id.* at [0030]), and Figure 3 is an exemplary flow diagram illustrating the interaction between the client and the server for initiating a streaming media session (*id.* at [0023]).

To initiate a session, the client 106 sends a description request (e.g., an RTSP DESCRIBE request) to the server 104 to obtain a description of the available content (*id.* at [0041]). Server 104 responds by encapsulating the streaming media format header within a description message (e.g., an SDP -- Session Description Protocol¹¹ -- message) and transmitting the description message via a description protocol (e.g., SDP) to the client 106 (*id.*). The SDP message includes a streaming media format file header and a content description list (*id.* at [0031]). The client 106 then initiates a connection to the server 104 using a RTSP SETUP command (*id.* at [0045]). The client 106 is free to choose which streams it wants to SETUP (i.e., receive from the server 104) (*id.*). The client 106 can, for example, issue a separate RTSP PLAY request for each stream that has been chosen (*id.*).

The Examiner reads the claim 1 step of “receiving a request for a particular media file” on the receipt, by media server 104, of a DESCRIBE request. *See* Final Action 8 (“the RTSP DESCRIBE method requires identification of a particular media file . . . , which is typically identified by a specific URL.”). As support for the finding that an RTSP DESCRIBE request identifies a particular media file, the Examiner relies on the discussion of an RTSP DESCRIBE request in Section 10.2 (at pages 31-32) of Schulzrinne. *Id.* at 7-8. In the October 15, 2007, Advisory Action, the Examiner further finds (at page 3) that “the RTSP DESCRIBE message is a request for [initiating] a particular media file”) (brackets in original).

¹¹ Klemets [0007].

Appellants responded to the Examiner's reading of the "request for a particular media file" on Klemets's RTSP DESCRIBE request by arguing that

[t]he RTSP DESCRIBE request disclosed in the Klemets et al. reference is clearly not a request for a particular media file as required by each of independent claims 1 and 11. The RTSP DESCRIBE request disclosed in the Klemets et al. reference is merely a request from the client to the server to describe the available content. *See*, Klemets et al., page 2, paragraph [0015] and paragraph [0016]; and page 4, paragraph [0041].

(Br. 16-17.) Because Appellants have not challenged the Examiner's above-quoted finding that an RTSP DESCRIBE request *identifies* a particular media file, we understand Appellants to be arguing that the DESCRIBE request nevertheless is not "a request *for* a particular media file" (emphasis added), as required by the claim. We agree with the Examiner that this claim language is broad enough to read on a request *with regard or respect to* a particular media file and thus is broad enough to read on the DESCRIBE request (Answer 8).

Appellants next argue that "the RTSP DESCRIBE request does not involve the steps of intercepting a download request for the actual media file, and reinterpreting the download request into a request for receiving a corresponding metafile as further required by each of independent claims 1 and 11" (Br. 17). The Examiner responded to this argument by discussing the meaning of the recited "download request for the actual media file" separately from the meanings of the terms "intercepting" and "reinterpreting." Regarding the recited "download request for the actual

media file,” the Examiner concludes that this claim language does not necessarily mean a request to download the actual media file:

[T]he phrase “intercepting a download request for the actual media file” does not necessarily mean that the request is a request to download the actual media file. . . . [T]he phrases “for a particular media file” and “for the actual media file” could mean either that the request is to *acquire, or download*, the media file (which is the interpretation that Appellant is apparently relying upon), or that the request is *with regard or respect to* a particular media file (which is clearly within the scope of the instant claims, and is the interpretation relied upon by the Examiner).

(Answer 8.) We agree with Appellants that the Examiner’s interpretation of the phrase “download request for the actual media file” is unduly broad.

When that phrase is viewed in light of the further recitation of “reinterpreting said download request into a request for receiving a corresponding metafile,” it is clear that the “download request for the actual media file” is a request to download the actual media file rather than a request to download information with regard to or with respect to the actual media file. Because the Examiner apparently agrees with Appellants that the “download request for the actual media file” so interpreted does not read on Klemets’s DESCRIBE request, we will not sustain the anticipation rejection of: (a) claim 1; (b) independent claims 11 and 18, which include limitations similar to those recited in claims 1; and (c) dependent claims 2-4, 6, 7, 12-14, 16, and 17, which are not separately argued. *In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987).

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For the same reason, and because the Examiner does not alternatively rely on obviousness to remedy the above-noted deficiency, we will not sustain the rejection of claims dependent 5 and 15 under 35 U.S.C. § 103(a) for obviousness over Klemets.

DECISION

The Examiner's decision that claims 1-7 and 11-18 are unpatentable over the prior art is reversed.

REVERSED

gvw

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